IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.10452 of 1999

Between:

Andhra Bank Officers Union

(affiliated to All India Bank

Officers Association) rep. by its

Officiating General Secretary

Sri L. Raghhothama Rao, 3-6-551/1,

Street No.7, Himayathnagar, Hyderabad-29

..... PETITIONER

AND

Andhra Bank rep. by its Chairman & Managing

Director, Head Office : Dr.Pattabhi Bhavan,

Saifabad, Hyderabad & another

....RESPONDENTS

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.10452 of 1999

O R D E R:

This Writ Petition is filed seeking a Mandamus to declare the action of the 2nd respondent in granting approval to candidates, who have not fulfilled three year rural/semi-urban service for being considered for promotion to the cadre of Senior Management Grade Scale (SMGS) IV and the action of the 1st respondent in calling those candidates, who have not completed three year rural/semi-urban service, for interview as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution of India with a consequential direction to set aside the Proceedings dated 4-5-1999 of the 2nd respondent.

It may be noticed that this Writ Petition is filed in the representative capacity by the Officiating General Secretary of the Andhra Bank Officers' Union (Affiliated to All India Bank Officers' Association), Hyderabad.

It is the case of the petitioner-union that it was registered under the Trade Unions Act and has more than 1300 Officers of the respondent-Bank as its members. It was a majority Union for more than a decade till the end of 1996. It has been espousing the cause of all the Officers of the Bank in general and its member-Officers in particular. The respondent-Bank is a corresponding new Bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act,1980 (for short 'the Act') read with First Schedule thereof. Section 19 of the Act empowers the Board of Directors of the corresponding new Bank to make Regulations. The

Regulations provide for terms and conditions of service of the employees of the respondent-Bank. Sub-Section (4) of Section 19 of the Act requires every Regulation made by the Board of Directors to forward to the Central Government and a copy thereof to be laid before each house of the Parliament. Regulations made by the respondent-Bank in exercise of the powers under Section 19 of the Act have statutory force. In exercise of the powers conferred by Section 19 read Section 12(2) of the Act, the Board of Directors of the Bank, in consultation with the Reserve Bank of India and with the previous sanction of the Central Government, made the Andhra Bank (Officers) Service Regulations,1982 (for short 'the Regulations') which came into force with effect from 1-1-1983. Regulation 4 deals with grades and scales, which are as under:

a. Top Executive Grade Scale VI and VII
b. Senior Management Grade Scale IV and V
c. Middle Management Grade Scale II and III
d. Junior Management Grade Scale I

Regulation 6 deals with categorization and Regulation 6(1) provides that having regard to the responsibilities and functions exercisable, every post of an Officer in the Bank shall be categorized by the Board or any authority specified by the Board in this behalf as falling in any one of the grades or scales mentioned in Regulation 4 and such categorization may be reviewed by the Board or such authority. Further, in terms of the guidelines issued by the Central Government in this regard, the SMGS cadre would include Assistant General Managers and Heads of functional Departments in the Head Office exercising either operational or advisory responsibilities in both policy making and areas reserved for Head Office functions. Officers having full functional responsibilities for certain large geographical areas with supervision over a sizeable portion of the branches of the Bank Managers of exceptionally large Metropolitan Branches and very large branches and the principal Officers responsible for training may also be at this level. Regulation 6(2) provides that for the purpose of categorization of posts under sub-regulation (1), every branch of the Bank shall be classified by the Bank in accordance with the criteria to be approved by the Government as small, medium, large, very large or exceptionally large category. The Bank issued Circular No.041, dated 19-5-1998 regarding

classification of branches at the end of March,1998. According to the said Circular, only very large branches are required to be posted with a Scale IV Officer and as at the end of March,1998 the Bank had 13 very large branches; out of which, 12 are located in areas classified by the Bank as 'urban' and only one very large branch at Tirumala, which comes under the category of 'semi-urban'. Regulation 17 deals with promotions and Regulation 17(1) provides that promotions to all grades of Officers in the Bank shall be made in accordance with the policy laid down by the Board from time to time having regard to the guidelines of the Government, if any. The promotion policy was formulated as per the Regulations and guidelines of the Central Government. During 1984, one such promotion policy was formulated by the Board of the Bank, which is being modified from time to time in terms of the Government guidelines. Respondent No.2 issued guidelines in the year 1985 imposing compulsory rural/semi-urban service in respect of promotions after 1-6-1988. Respondent-Bank vide Circular No.255, dated 1-7-1986 informed all Officers that a JMGS I Officer has to put in two years rural branch experience and MMGS II Officer has to put in three years experience in a rural/semi-urban branch for considering their candidature for promotion to the next higher grade/scale. The Bank communicated the revised guidelines issued by the Government of India in terms of Regulation 17 to all the staff members vide Circular No.421, dated 17-11-1986. The requirement of minimum rural service/semi-urban service of 3 years for promotion from MMGS II to MMGS III was to become operative with effect from 1-6-1988. Further, the clarifications issued by the Central Government with regard to rural service was communicated by the Bank to all its staff members vide Circular No.240, dated 27-6-1987 and Circular No.683, dated 7-3-1989. After the guidelines were framed by the Central Government on 1-4-1988 the 1st respondent-Bank conducted interviews in September,1988 for filling up of 85 vacancies in MMGS III and the promotions were given effect from 15-10-1988. Relaxation was given to the candidates called for interview from the pre-condition of putting in 3 years rural/semi-urban service for being considered for promotion. However, the Board of Directors of the Bank at its meeting held on 18-4-1991 approved the policy for promotion of Officers from one scale/grade to another and the same was communicated vide Circular No.56, dated 25-4-1991. The Board of Directors of the Bank in its meeting held on 13-6-1991 approved filling up of 131 vacancies in MMGS III and 241 vacancies in MMGS II identified upto 31-3-1992 and resolved to relax the prescribed rural/semi-urban service for determining the eligibility under clause (2) of the

guidelines in terms of Regulation 17 for this promotion process. The same was also again sought to be relaxed by the Board in its meeting held on 25-1-1993 for the ensuring promotion process. Further, in the meeting held on 28-4-1993, the Board approved to effect 102 promotions to MMGS III and 316 promotions to MMGS II as per the requirement of Officers as on 31-3-1993 and the same was communicated vide Circular No.057, dated 19-5-1993. In fact, the Bank vide Circular No.343, dated 31-3-1995 informed all the Branches that while in all earlier promotion processes special permission of the Board was obtained for relaxing the eligibility criteria duly stipulating that it should be fulfilled post facto, it has been firmly resolved that no such exemption/relaxation would be considered for future promotion processes and that Officers, who do not fulfil the eligibility criteria of rural/semi-urban service as on the cut-off date would not be called for promotion process, though they fall within the zone of consideration. Further, the branches were advised to forward all the requests received from the Officers opting to work in rural/semi-urban branches to their Regional/Zonal offices concerned, who will register all such requests in a special register. The Regional/Zonal Offices would furnish the Central Office a list of such Officers, who have volunteered to undertake assignments in rural/semi-urban branches. It is not possible for the Central Government to transfer such Officers to other Regions/Zones to undergo rural/semi-urban service. However, the 2nd respondent vide Circular dated 19-11-1997 issued clarification regarding the guidelines relating to rural service, whereby the Chief Executives of the Nationalized Banks were informed that the continuation of these mandatory provisions had been examined and it was decided that the Board of each Bank may formulate a transparent and well defined policy for ensuring that each Officer in the Bank has sufficient exposure of rural/semi-urban service at least for 3 years before his promotion to SMGS IV and in case any Bank wishes to give exemption from rural/semi-urban posting in view of specialized nature of duties of certain officers, they may do so subject to laying down a well defined and a clear-cut policy in this regard so as to ensure that there is no discrimination in giving such exemption. Despite the Circular dated 19-11-1997, the Bank yet to formulate a transparent policy in this regard. Further, the Circular enables the Bank to give exemptions from rural/semi-urban postings to Officers in lieu of the specialized nature of their duties i.e. for Specialist Officers. The Circular does not envisage relaxation from the rigour of the guidelines for non-specialized Officers i.e. Officers in general cadre as such for promotions to SMGS IV General Cadre Officers (non-specialist Officers) are not

entitled for any relaxation. It is the case of the petitioner that the Board of Directors of the Bank identified 83 vacancies in SMGS IV in its meeting held on 12-3-1999 and decided to fill up the vacancies from among candidates in MMGS III by calling them for interview including the superseded candidates (in the previous year) in the ratio of 1:3 with a view to favour the candidates in MMGS III, who had not completed the minimum stipulated rural service, the 1st respondent vide letter dated 15-4-1999 requested the 2nd respondent to grant relaxation. In reply thereto, the 2nd respondent vide letter dated 4-5-1999 granted approval for considering all such Officers in Scale III, who are otherwise eligible but have not yet completed rural/semi-urban assignments for promotion to Scale IV, subject to the condition that on promotion those Officers would be given rural/semi-urban posting to the extent the Bank has got Scale IV incumbancy branches in rural/semi-urban areas. Pursuant to the approval granted by the 2nd respondent through letter dated 4-5-1999, the 1st respondent has decided to commence the promotion process by holding interviews from 15-5-1999 onwards and the candidates are proposed to be telegraphically intimated thereof.

As against 83 vacancies in SMGS IV around 330 candidates in MMGS III are proposed to be called for interview, of whom around 140 were promoted to MMGS III prior to 1-6-1988, around 50 were promoted in September,1988, around 110 in 1991 and around 30 in 1993. Around 190 candidates, who are now being called for interview for promotion to SMGS IV were promoted to MMGS III subsequent to 1-6-1988 and were given relaxation from fulfilling the requirement of rural/semi-urban service even for being considered for promotion to MMGS III. Around 40 candidates, who are now being called for interview have not completed the required 3 year rural/semi-urban service and from among them more than 30 candidates were promoted to feeder category of MMGS III subsequent to 1-6-1988 i.e. the date from which the Central Government guidelines regarding compulsory rural/semi-urban service came into force. The action of the 2nd respondent in granting relaxation vide Circular dated 4-5-1999 and the action of the 1st respondent in calling those candidates in MMGS III, who have not fulfilled the stipulated 3 years rural/semi-urban service for interview for being considered for promotion to SMGS IV, is arbitrary, discriminatory, illegal and violative of Articles 14 and 16 of the Constitution

of India.

A detailed counter affidavit has been filed by the 1st respondent denying the allegations made by the petitioner. But, no counter affidavit is filed by the 2nd respondent. In the counter affidavit of the 1st respondent, it is *inter alia* stated that firstly the petitioner-union does not represent majority of the Officers. Secondly, the petitioner-union has never submitted any representation of the grievance sought to be espoused in the Writ Petition. The Writ Petition itself has been instituted for totally extraneous reasons. V. Koteswara Rao, General Secretary of the petitioner-union himself participated in the selection process for promotion to SMGS IV. The promotion of the Officers in the Bank are governed by Regulation 17 of the Andhra Bank Officers' Service Regulations (ABOSR). The said Regulation 17 provides that the promotions to all grades of Officers in the Bank shall be made in accordance with the policy laid down by the Board from time to time having regard to the guidelines of the Government, if any. The Government guidelines in force as to promotion policy were formulated by the Board during 1984, which were modified from time to time. The rural/semi-urban banking branches are essentially situated in the State of Andhra Pradesh. The conventional banking business requires certain amount of free conversing abilities in local language, apart from requiring adequate amount of awareness of the local conditions. It is, therefore, posing operational problems for posting Officers in rural/semi-urban branches/offices/units whose mother tongue is not Telugu. After the Bank has been nationalized in the year 1980, the recruitment drive for posts of Officers in the Bank being nationwide, is attracting talent from all over India also. There is a sizeable strength of Officers working in various capacities in the Bank, who belong to different areas. The Branches having aggregate business of Rs.2 crores upto Rs.15 crores are categorized as medium size branches, generally headed by Officers of MMGS II. Branches having aggregate business between Rs.15 crores and Rs.50 crores are categorized as large size branches manned by MMGS III Officers. Very large size branches whose aggregate business runs upto Rs.150 crores are headed by SMGS IV Officers. There is only one such very large branch in semi-urban category, namely, Tirumala. Thus, the Bank has great operational difficulties in posting all the Officers in rural/semi-urban areas for enabling them to acquire the compulsory service in those areas. Further, promotion processes for JMGS I to MMGS II and MMGS II to MMGS III were conducted during October,1988, June, 1991 and October,1993. The Board

of Directors on these three occasions, after due consideration of the matter, relaxed the pre-condition of the completion of rural/semi-urban service. However, the promoted Officers to MMGS II and MMGS III, who have not completed the required rural/semi-urban service, were required to complete the same on promotion as a post condition. Postings were given to the Officers in MMGS II and MMGS III based on availability of vacancies, administrative requirements etc. While the matter stood thus, respondent No.1 received a communication dated 19-11-1997 from the Ministry of Finance, Government of India that in pursuance of requests received from the Banks, who could not provide rural/semi-urban service to all the eligible officers before they become eligible for promotion because of fewer number of rural branches in these Banks, Government permitted them to consider promotion of all such Officers, subject to condition that on promotion they would be posted to rural/semi-urban service. These guidelines were placed before the Board, which resolved that the promotions from JMGS I to MMGS II and MMGS II to MMGS III be held as per the existing policy, but compulsory rural/semi-urban service will be a post promotional requirement. The zone of consideration was in the ratio of 1:3 + those Officers, who have been superseded on an earlier occasion. However, a decision was taken to fill up only 81 posts leaving out 2 consequential vacancies. 243 Officers plus 69 superseded Officers have formed the zone of consideration. In addition, one candidate – C.G.K. Murthy – was directed to be subjected to selection process by this Court. Out of 305 Officers, who are forming the zone of consideration, approximately 174 Officers in MMGS III have completed rural/semi-urban service and 131 Officers, in all, only did not put in the rural/semi-urban service. Out of them, 66 Officers were promoted pursuant to the selection process initiated much prior to 1-6-1988 to the category of MMGS III and were not required to undergo rural/semi-urban service. Out of the balance of 65 Officers, who did not have the rural/semi-urban service to their credit, as many as, 27 of them were promoted in October,1988 to MMGS III, which was in the immediate aftermath of the introduction of the criteria of rural/semi-urban service. Out of these 27 Officers so promoted, 14 of them belong to the Specialist category. 34 Officers have been promoted during August,1991 of whom 7 were Specialist Officers. Only 5 candidates, who were promoted to MMGS III during Deceber,1993 are falling within the zone of consideration for promotion to Scale IV. Thus, the averment of the petitioner that as many as 190 out of the Officers now called for the interview do not have rural/semi-urban service is without any basis or justification. In the process of

promotion from MMGS III to SMGS IV and filling up of the vacancies of 83 posts by calling 305 candidates various aspects mentioned above were considered by the Board and the Board approved to consider the candidature of Officers in MMGS III promoted prior to 19-11-1997 irrespective of their completion of rural/semi-urban service, but subject to completion of minimum requirement of 5 years satisfactory service in MMGS III. The matter was also referred to Central Government and the Ministry of Finance through communication dated 4-5-1999 conveyed its approval for considering all such Officers in Scale III, who are otherwise eligible, but have not yet completed the rural/semi-urban service for promotion to SMGS IV, subject to the following conditions:

1. On promotion these Officers will be given rural/semi-urban service posting to the extent Bank has got scale IV incumbency branches in rural/semi-urban areas and

2. Such of the scale III Officers, who do not get promoted in this exercise will be posted in rural/semi-urban areas to the extent bank has got such branches.

Pursuant to the promotions, which are now contemplated to fill up 81 vacant posts of SMGS IV, transfers are to be effected both for MMGS III and SMGS IV levels. It requires large number of Officers to be shifted from one place to another throughout India, as a result, the dependants of these Officers will have to solicit admission to various educational institutions. Correspondingly, transfer of other cadres of Officers is also involved. It was roughly estimated that over 300 transfers all India wise have to be effected by the Bank. To cause no inconvenience in this regard, the Management of the Bank contemplated to effect the transfers/promotions before 15th of June,1999, so that the Officers, who are effected by the transfers/promotions will make necessary arrangements. All the eligible Officers have been interviewed upto 31-5-1991 at various centers. The Bank finalized the selection process and was about to issue the Orders of promotion. At this stage, this Court issued interim directions not to finalize the promotions.

Sri G. Vidyasagar, learned counsel for the petitioner, strenuously contended that the relaxation given by the 1st respondent-Bank was subject to certain conditions. While promoting personnel from MMGS III to SMGS IV and granting exemption, unqualified candidates were included in the zone of consideration and qualified candidates, who have completed 3 years of rural/semi-urban service were left over. Further, the

said conditions were not followed even while extending relaxation and giving promotions. In other words, MMGS III Officer, who did not fulfil the criterion of 3 years rural/semi-urban service while granting exemption was though promoted to SMGS IV, but he was never posted to rural service thereafter as required under the conditions attached to the relaxation. In the result, the Officers, who have been exempted from the condition of putting three years of rural/semi-urban service have been posted all through in the urban areas. In fact, there are many Officers in MMGS III, who were granted such exemption when they were promoted to this cadre from MMGS II itself and this is the second exemption. Neither those Officers were posted in rural areas when they were promoted as MMGS III or now as SMGS IV; thus, the exemption granted by the Central Government is made a mockery and people with vested interest are being posted in the urban areas even after promotion, having obtained relaxation as to the 3 years rural/semi-urban service, apart from the fact that many of the Officers, who have completed 3 years rural/semi-urban service were denied promotion, since they have not come within the zone of consideration – since on giving relaxation of the said condition, the only criteria remained for the purpose of zone of consideration is seniority. Therefore, the Proceedings of the 2nd respondent dated 4-5-1999 granting relaxation are liable to be set aside.

Per contra, Sri Nooty Ram Mohan Rao, learned counsel appearing for the 1st respondent Bank, contended that neither there is any arbitrariness in the Proceedings of the 2nd respondent dated 4-5-1999 nor on the part of the 1st respondent in calling those MMGS III Officers, who have not completed 3 years of rural/semi-urban service for interview for considering promotion to the post of SMGS IV. The relaxation was granted only keeping the interest of the Bank in view. The same is neither arbitrary nor unreasonable. The majority of the persons, who have put in 3 years rural service, were considered. Only those, who are at the tail end in the seniority of MMGS III and who could not be within the zone of consideration alone were left.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Proceedings and other material made available on record.

The power as to laying guidelines by the Government of India – 2nd respondent - or adopting the same by the Board of the 1st respondent-Bank is not in dispute. The only question that falls for consideration is as to whether the exemption given through the guidelines laid down in the impugned Proceedings is arbitrary and unreasonable ?

The relaxation as enunciated under the impugned Proceedings of the 2nd respondent dated 4-5-1999 reads as under:

> "I am directed to refer to your letter No.666/3/s/38, dated 15th April,1999 on the subject cited above and to convey Government's approval for considering all such Officers in Scale III, who are otherwise eligible but have not yet completed rural/semi-urban assignment for promotion to Scale-IV subject to the following conditions:
>
> 1. On promotion these Officers will be given rural/semi-urban service posting to the extent Bank has got scale IV incumbency branches in rural/semi-urban areas and
> 2. Such of the scale III Officers, who do not get promoted in this exercise will be posted in rural/semi-urban areas to the extent bank has got such branches."

Before going into the issue, it may be necessary to notice that the branches having aggregate business of Rs.2.00 crores are categorized as small branches, which are manned by JMGS I Officers. The Branches having aggregate business of Rs.2 crores upto Rs.15 crores are categorized as medium size branches, generally headed by Officers of MMGS II. Branches having aggregate business between Rs.15 crores and Rs.50 crores are categorized as large size branches manned by MMGS III Officers. Very large size branches whose aggregate business runs upto Rs.150 crores, are headed by SMGS IV Officers. As per the counter affidavit filed, there is only one such very large branch in semi-urban area, namely, at Tirumala. In this view of the matter, the question of posting SMGS IV Officer in a rural/semi-urban branch does not arise insofar as the State of Andhra Pradesh is concerned. In the instant case, the dispute is with regard to the promotion to the cadre of SMGS IV. In fact, the petitioner-union has not ventilated such a grievance when its members belonging to cadre of MMGS III were promoted from the cadre of MMGS II by extending such an exemption.

No Officer who is really aggrieved is before this Court. The Writ Petition is filed in a representative capacity without properly understanding the circumstances and consequences of the relaxation granted. In fact, 83 posts of SMGS IV cadre were sought to be filled up. As many as 311 candidates were, in fact, in the zone of consideration i.e. in the ratio of 1:3 plus those who were superseded in the previous selection. In view of the relaxation of the condition of putting in 3 years rural/semi-urban service, the criteria adopted for calling the candidates for interview was only seniority and they were called in the ratio of 1:3 plus those who were superseded in the earlier selection. In fact, out of 311 candidates, who came within the zone of consideration, 180 are the candidates who have completed 3 years of rural/semi-urban service. Among the 180 candidates, 46 candidates were selected by the selection committee. Only 33 candidates from the remaining 131 candidates (51 superseded in the earlier selection + 80 specialized or those who have been granted exemption from holding 3 years rural/semi-urban service) were selected. Out of these 33 many of them are specialized Officers and in view of their specialization in various fields, they could not be posted to the rural branches. As the guidelines laid down by the Government of India in the impugned Proceedings are the result of representations and recommendations made by various Banks in the country stating that they have very fewer number of branches, in the result, posed a problem for considering promotion of seniormost persons, who could not be posted for rural branches either for want of number of rural branches or in view of their appointment as specialized Officers. Therefore, even assuming that these Officers after being promoted to the cadre of SMGS IV are required to be posted in the rural areas as per the guidelines of the Government of India, there will be dearth of specialized Officers to man the specialized Departments. Further, the branches to be manned by SMGS IV in the rural/semi-urban areas are not available in the State of Andhra Pradesh excepting Tirumala, which is a semi-urban area. Therefore, the question of posting all these Officers by granting relaxation in the rural areas is also not feasible. Hence, there is no deliberate violation of the conditions by the 1st respondent-Bank insofar as not fulfilling the condition of posting them to rural areas is concerned.

When a policy of this nature was considered by the 2nd respondent, some anomalies bound to crop up - to some it is advantageous and to some it is disadvantageous. Merely because a few Officers were left lever, who could not

come within the zone of consideration being tail enders in the seniority list of MMGS III, the relaxation approved in the impugned Proceedings cannot be said to be unreasonable. As noticed above, as soon as the Officers cross over MMGS II, it would be even difficult to post the MMGS III Officers in rural areas, since the branches to be manned by MMGS III Officers are fewer in number. The conditions (i) and (ii) of the letter dated 4-3-1999, as noted above, themselves would make the things clear that the SMGS IV Officers promoted from MMGS III cadre will be given rural/semi urban posting to the extent Bank has got Scale IV incumbency branches in rural/semi urban areas - further, those who are not promoted to Scale IV will be posted in rural/semi urban to the extent Bank has got branches. Therefore, the apprehension of the petitioner-union that the Scale III Officers promoted to Scale IV have not been posted to rural area is without any substance. In fact, the Scale IV incumbency branches are very few and it is impossible to post all those who are given relaxation of 3 years rural service. The petitioner-union except making a general statement, no specific incident has been brought to the notice of the Court that there being a Scale IV incumbency branch available in rural area, none of the persons promoted are posted there as required under the conditions of relaxation. Therefore, the relaxation given by the 2nd respondent on 4-5-1999 or the 1st respondent calling MMG Scale III Officers without rural/semi urban experience for the interview for being considered for promotion to the post of SMG Scale IV Officer is neither arbitrary nor illegal; muchless unreasonable and amounts to mockery of the system.

The learned counsel for the petitioner placed strong reliance on the Judgments reported in **K. RAMESH BABU v. STATE BANK OF INDIA** and **CANARA BANK OFFICERS' CONGRESS v. GOVERNMENT OF INDIA** and submitted that the case on hand is squarely covered by these binding decisions.

In **K. RAMESH BABU**'s case (1 supra), this court held as under:

> "In this case, the petitioners are entitled for promotion in preference to those who had not completed the obligatory period of two years of rural service or one year of operational experience as prescribed by the relevant promotion policy, the absence of which was to be treated as disqualification of the candidates, who were otherwise eligible. The promotion policy proposed by the State Bank of India and which was adopted by the Executive Committee of the State Bank of Hyderabad, left no quarter for the concerned subsidiary Bank to withhold the requisite posting in rural/senior urban branch so as to enable the eligible officers to acquire the requisite qualification. In this case, the favourites were retained in metropolitan/Urban Postings with assurance that the shortfall in rural service or operational experience

would be condoned when occasion arises. Exemption of obligatory requirements for promotion in favour of those who ought to have been disqualified is clearly arbitrary and discriminatory."

In **CANARA BANK OFFICERS' CONGRESS** case (2 supra), this Court held as under:

> "**20**. The relaxation of rules is granted in exceptional circumstances to meet a particular contingency. The power of relaxation should be specifically conferred by the statute on the authorities. It cannot be inferred from the rules. Therefore, in the absence of any specific power of relaxation under the said regulations, the guidelines issued by Govt. ought to be implemented. The relaxation cannot be treated as a matter of course and it cannot be made annual feature. Purporting to exercise the power of relaxation, the pre-promotion condition cannot be converted into a post promotion condition. Even if there is any such power, this Court held that the exemption of obligatory requirements for promotion in favour of those who ought to have been disqualified is clearly arbitrary and discriminatory. Thus, the inevitable conclusion is that the plea of inability of the Bank to send all the eligible Officers to rural service due to administrative exigency does not sound to reason. The violation of promotion policy by the Bank cannot be cured by imposing a post-promotion condition. The result would be that the promotion of all the Officers, who did not possess rural service is liable to be set aside."

The case on hand is not a case where the respondents are bereft of power. In fact, the power of the respondents is not in dispute. This is a case where the relaxation was done as per the guidelines of the Government of India and as per the power vested under the statute book. Whereas, in **K. RAMESH BABU**'s case (1 supra), the Bank had violated the promotion policy proposed by the State Bank of India and as adopted by the executive committee of the State Bank of Hyderabad and under those circumstances, it was held that there was no power for the Bank to withhold the requisite posting in rural/semi-urban branch. Therefore, the said case has no bearing to the facts of the instant case. **CANARA BANK OFFICERS' CONGRESS** case (2 supra) also has no application since in that case also it was observed that the relaxation cannot be inferred from the Rules and in the absence of any specific power under the Regulations, the guidelines issued by the Government of India should be implemented. The relaxation cannot be treated as a matter of course. In this case the relaxation was granted by way of impugned Proceedings on the recommendations received from various branches in the country and after examining the case in detail. Therefore, the impugned Proceedings cannot be said to be either arbitrary or illegal. The Writ Petition is devoid of merits and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

10-8-2005

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